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LIQUOR STATUTES IN THE UNITED STATES.

IN the following pages I have endeavored to group all the provisions regulating and restricting the manufacture and sale of intoxicating liquor which appear in our statute books, hoping both to set forth the several systems and to note the States in which their respective operation may be studied, my object being to supply condensed statistical information to the social or political student of the liquor question.

As it seems that every system hitherto tried in the United States still appears on the statute books of some State, though it may have been elsewhere discontinued, I will not make an historical examination of the subject, but will treat of the existing laws under the headings of Prohibition, Local Option, License, the Civil Damage Acts, and Constitutional References.

For this purpose I have outlined a composite statute for each class of enactments, giving a reference for every feature, without attempting to indicate each State in which that feature appears, but appending a general index which will supply this information.

PROHIBITION.

The aim of this system is to prevent within the State the sale of intoxicating liquor as a beverage, and the enactments to fulfil that purpose are complete and stringent.

Offences. — No person shall manufacture, sell, keep for sale, give, or furnish intoxicating liquor.¹

Provided, that druggists or town agents (whose position we will discuss later) may sell for medical, mechanical, artistic, scientific, or sacramental purposes.²

Houses kept for the illegal sale of liquor are common nuisances.³

So also clubs for sale, gift, or distribution.⁴

The lessor of such buildings, with knowledge of the sale or intent to sell, is punishable.⁵

¹ Comp. Laws Kansas, 1885, ch. 35, s. 2287.

² Rev. Code Io. 1880, s. 1526.

³ Rev. Code Io. 1880, s. 1543.

⁴ Laws of R. I., Jan'y Session, 1887, ch. 634, s. 14.

⁵ Gen'l Laws N. H. 1878, ch. 109, s. 15, s. 34.

Common carriers must obtain a certificate from the county auditor that the liquors are in transport to a town agent,¹ and must not deliver to one intending to violate the law.² Moreover, any traveller bringing liquors to a person with knowledge of his intent to sell,³ or taking orders for purchase,⁴ is guilty of a misdemeanor.

Any person selling liquors three times within six months is a common seller.⁵ No person shall keep a drinking shop,⁶ or advertise the sale of liquors.⁷

Enforcement. — To execute these laws local special constables are appointed,⁸ the existing officers are enjoined to make extra efforts,⁸ and, if the local force in a county be lax, thirty or more tax-payers therein may petition the governor to appoint State constables for such district.⁹

The officers may enter and search suspected premises by warrant, issued under written information on oath of any citizen, male or female,¹⁰ or without a warrant on reasonable cause to suspect a sale.¹¹ They may arrest, without a warrant, a person found in the act of sale or transportation, and may seize all liquors and all appliances for sale.¹²

Prosecutions. — It shall be the duty of the district attorney,¹³ the attorney-general,¹⁴ or the selectmen¹⁵ to prosecute under this law. But in those States where buildings kept for illegal sale are declared common nuisances a private citizen may get an injunction,¹⁶ or may abate the nuisance.¹⁷

Evidence. — The finding of intoxicating liquors in a place other than a dwelling-house,¹⁸ the exposure of signs, bottles, or United States coupon receipts,¹⁹ the delivery from stores, steamers, or wagons used as places of common resort,²⁰ are all *prima facie* evidence of sale or intent to sell.

¹ Laws of Io. 1886, ch. 66, s. 10.

² Laws of N. H. 1887, ch. 53.

³ Laws of R. I. 1886, ch. 596, s. 14.

⁴ Acts of Me. 1885, ch. 366, s. 8.

⁵ Acts of Me. 1885, ch. 366, s. 7.

⁶ Laws of R. I., Jan'y Session, 1887, ch. 639, s. 1.

⁷ Laws of R. I., Jan'y Session, 1887, ch. 634, s. 10.

⁸ Laws of Io. 1886, ch. 66, s. 1.

⁹ Laws of R. I., Jan'y Session, 1887, c. 634, s. 4.

¹⁰ Gen'l Laws of N. H. 1878, ch. 109, s. 27.

¹¹ Laws of Io. 1886, ch. 66, s. 1.

¹² Gen'l Laws of N. H. 1878, s. 25.

² Comp. Laws Kans. 1885, ch. 35, s. 2317.

⁴ Acts of Me. 1885, ch. 366, s. 1.

⁶ Acts of Me. 1887, ch. 140, s. 7.

⁸ Laws of R. I. 1886, ch. 596, s. 36.

¹⁰ Laws of Vermont, 1886, No. 38, s. 1.

¹³ Comp. Laws of Kans. 1885, s. 2299.

¹⁸ Laws of Io. 1886, ch. 66, s. 8.

²⁰ Gen'l Laws of N. H. 1878, ch. 109, s. 24.

Penalties.—The penalties under this system are, for a sale, from \$30–\$100 fine, 30–90 days' imprisonment, or both.¹ For keeping a nuisance, \$300–\$1,000 fine, forfeiture of the liquors and appliances, and the closing of the building for one year.² One-half of these fines goes to the informer and the remainder to the school fund of the district.³

The forfeited liquors if unfit for use are destroyed, otherwise they are delivered to the town agent to be sold for the benefit of the district.⁴

Town Agents and Druggists.—Permits to sell for medical, mechanical, scientific, artistic, or sacramental purposes may be issued to any person who is not a hotel, saloon, restaurant, or grocery keeper.⁵ If a druggist, he must have \$500 worth of other goods in his store.⁶ The applicant for such permit must present a certificate of good character, signed by a majority of the electors in his district,⁷ or he must present a petition signed by twenty reputable freeholders and electors, and twenty-five reputable women over twenty-one.⁸

The applicant must give a bond conditioned on obedience to the law, and must keep a book of receipts and sales.⁹

Town agents are paid a fixed salary,¹⁰ or their profits are limited.¹¹

A druggist can make only one sale on each prescription,¹² must not sell to a minor without the written consent of his parent or guardian,¹³ and an unlawful sale deprives him of the right to practice as a pharmacist for five years.¹⁴

Manufacturers.—An applicant for a permit to manufacture intoxicating liquors must present a petition signed by one hundred voters of the ward, in a city of the first or second class, or by a majority of the voters of the township or city of the third class.

He must give a bond for \$10,000, and can sell only in the origi-

¹ Laws of Me. 1885, ch. 366, s. 2.

³ Laws of Io. 1884, ch. 143, s. 9.

⁵ Rev. Code Io. 1880, s. 1526.

⁷ Rev. Code Io. 1880, s. 1527.

⁹ Rev. Code Io. 1880, ss. 1528, 1533.

¹¹ Rev. Code Io. 1880, s. 1537.

¹³ Laws of R. I., Jan'y Session, 1887, ch. 634, s. 2.

¹⁴ Laws of R. I., May Session, 1886, ch. 596, s. 5.

² Laws of Io. 1886, ch. 66, ss. 4, 5.

⁴ Laws of Me. 1885, ch. 359, s. 8.

⁶ Laws Kans. 1887, ch. 165, s. 1.

⁸ Laws of Kans. 1887, ch. 165, s. 1.

¹⁰ Gen'l Laws of N. H. 1878, ch. 109, s. 9.

¹² Act of S. C. 1884, No. 495.

nal packages to druggists with permits. The manufacturer's permit lasts five years.¹

Exceptions.—In Prohibition States it is permitted to sell wines or beer containing less than two per cent. of alcohol and not intoxicating,² or cider, and persons may manufacture liquor for their own use.³

Payments.—No action will lie for the price of liquors illegally sold,⁴ and money paid therefor may be recovered.⁵

LOCAL OPTION.

Akin to State prohibition is the Local Option system; indeed, the purpose of each is the same, namely, to stop the sale of liquor as a beverage.

Prohibition by local option, however, is effected by a popular vote without the intervention of representatives, and affects restricted political divisions of the State.

The main points of interest are the provisions for taking the popular will, and the divisions of the State to which the option is limited.

The regulations as to druggists or town agents, constabulary and evidence, are much the same as those of the prohibitory systems.

Elections.—In order to avoid a confusion of this question with party politics, it is usually brought up at a special election, called by the county commissioners, county court, or probate judge, on the petition of from ten⁶ to two hundred⁷ voters, or of one-tenth⁸ or one-quarter⁹ of the electors of the county.

Thirty to sixty days' notice must be given, and, in some States, if that bring the election near the time of any State election, it shall not be held till thirty to sixty days thereafter.¹⁰

Elsewhere it can only be held on annual election days.¹¹

Divisions.—There is much variation in the nature of the political divisions to which this option is accorded. Separate elections may be held in election districts, towns, and counties.¹²

¹ Laws Kansas, 1887, ch. 165, s. 6.

³ Laws Vt. 1882, No. 41.

⁵ Rev. Code Io. 1880, s. 1550.

⁷ Laws of Texas, 1887, p. 96.

⁹ Laws of Florida, 1887, ch. 3700.

¹¹ Laws of Minn. 1885, ch. 145, s. 48.

² Laws of R. I. 1887, ch. 634, s. 1.

⁴ Rev. Stat. Me. ch. 27, s. 56.

⁶ Laws of Minn. 1885, ch. 145, s. 48.

⁸ Laws of Georgia, 1885, No. 182, s. 1.

¹⁰ Laws of Florida, 1887, ch. 3700.

¹² Laws N. C. 1887, ch. 215.

Or the right is given to towns and counties,¹ also to towns alone.²

Or to counties only, but if a majority in any township, town, or election precinct within such county vote "No," then no license may be issued therein.³

A majority of the adult inhabitants, including females, residing within three miles of any institution of learning or church may, by petition to the county court, obtain an order forbidding the sale of liquors within three miles of such building for the period of two years thereafter.⁴

Recurrence. — The frequency of these elections is variously limited. The question of license is to be submitted at each annual or general⁵ election, or in the even-numbered years.⁶

It cannot be submitted within two,⁷ or three, or four⁸ years of a decision, and the result remains in force until changed by a subsequent election.⁹ But the failure to carry prohibition in a county shall not prevent an immediate election in any justice's precinct, town, or city, on the question.¹⁰

If a "No" vote results, the existing licenses are void;¹¹ or run till their expiration, or for six months, or a reasonable time thereafter. In Texas the proportion of license fee for the unexpired time is returned.¹²

The rule in Arkansas is unique. No license may be granted in that State unless a majority of the county so votes; but if a majority in any township, town, or ward of a city in such county vote for license, it may be issued therein.¹³ Hence the Arkansas system is Prohibition with Local Option for License, instead of License with Local Option for Prohibition, as in other States.

In Tennessee it is forbidden to sell intoxicating liquors within four miles of any school-house, public or private, whether school is in session or not. But this does not apply to incorporated towns.¹⁴

Another form of Local Option is that which forbids the issuing

¹ Laws Mo. 1887, p. 179, s. 1.

³ Code of N. C. 1883, s. 3117.

⁵ Dig. Stats. Ark. 1884, s. 4513.

⁷ Gen'l Stats. Ky. 1887, p. 470.

⁹ Laws Dak. 1887, ch. 70, s. 4.

¹¹ Gen. Stats. Conn. 1888, s. 3051.

¹³ Dig. Stats. Ark. 1884, s. 4515.

² Gen'l Stats. Conn. 1888, s. 3050.

⁴ Dig. Stats. Ark. 1884, ss. 4524, 4525.

⁶ Laws Wash. Terr. 1886, p. 31, s. 4.

⁸ Laws Mo. 1887, p. 179, s. 7.

¹⁰ Laws Texas, 1887, ch. 104, s. 1.

¹² Laws Texas, 1883, ch. 106.

¹⁴ Acts Tenn. 1887, ch. 167.

of a license unless the applicant produces a petition signed by a majority of the electors of the district.¹

Still another allows such a majority in localities within three miles of a school or church to petition against the granting of license therein.²

Females, as well as males, are competent subscribers to such petition.³

LICENSE.

The statutes regulating license are mainly occupied with the conditions of obtaining a license, by whom it may be granted and revoked, and the tax or fee required of the licensee.

Who may obtain License. — The applicant must be temperate,⁴ of good moral character, over 21,⁵ a citizen of the United States.⁶ Must not have violated the liquor laws within one,⁷ two, or five⁸ years, or in his life.⁹

Must be recommended by the grand jury,¹⁰ and must not be a trial judge.¹¹

Application. — He must present a written application signed by a majority of the resident electors,¹² or by twelve citizens,¹³ or by ten *bona fide* residents, five of whom must be land-owners nearest the place proposed.¹⁴ This application must state the kind of business to be done and the building in which the saloon is to be kept,¹⁵ which must not be a State or county building,¹⁶ or a grocery¹⁷ or within four hundred feet of a public school,¹⁸ or a dwelling-house, unless communication between the dwelling portion and the place of sale is cut off; ¹⁹ and there must be two good rooms for guests.²⁰

Notice and Remonstrance. — Notice of the application must be published in a weekly paper,²¹ or at the court-house, for two or more weeks. Thereupon a remonstrance may be entered by any

¹ Rev. Stats. Mo. ch. 98, s. 5442.

² Dig. Stats. Ark. 1884, s. 4525.

³ Laws of Utah, 1882, ch. 28, s. 2.

⁴ Laws of Minn. 1887, ch. 6, s. 2.

⁵ Rev. Stats. Mo. ch. 98, s. 5458.

⁶ Rev. Stats. S. C. s. 801.

⁷ Rev. Code Del. 1874, p. 261.

⁸ Gen. Stats. Conn. 1888, s. 3063.

⁹ Laws of Pa. 1887, no. 53, s. 4.

¹⁰ Gen. Stats. Conn. 1888, s. 3074.

¹¹ Pub. Stats. Mass. 1882, ch. 100, s. 6.

¹² Dig. Stats. Ark. 1884, s. 4524.

¹³ Code W. Va. 1887, ch. 32, s. 14.

¹⁴ Laws of Pa. 1887, no. 53, s. 2.

¹⁵ Laws of Minn. 1887, ch. 81, s. 4.

¹⁶ Laws of Md. 1882, ch. 46, p. 80.

¹⁷ Laws of Fla. 1883, ch. 3416, s. 2.

¹⁸ Code of Ga. 1882, par. 1419.

¹⁹ Gen. Stats. Conn. 1888, s. 3074.

²⁰ Acts of Mass. 1882, ch. 220.

²¹ Rev. Code Del. 1874, p. 261.

voter¹ interested, and the owner of adjoining real estate may object.² A time must be fixed for hearing applications and remonstrances.³ No license shall be issued without the written consent of the lessor.⁴

Bond. — Moreover, the applicant must take oath not to violate the law, and must give a bond for from \$250⁵ to \$6,000,⁶ conditioned on observance of the laws and subject to suits under the Civil Damage Act.⁷

To this bond there must be two sureties who must each take oath that they are worth the amount of the bond over all debts, and must designate property to that amount.⁸

They must not themselves be dealers in liquor, must own real property to the value of \$2,000, in the precinct, and must not have gone on any other bond.⁹

This application or petition goes before the city council,¹⁰ county commissioners,¹¹ county court,¹² or board of excise,¹³ to which the power to license, tax, regulate, or prohibit¹⁴ is given.

In some States the action of these bodies is final, in others an appeal will lie, and they may be compelled by a writ of mandamus to issue license.

In still other States they may completely withhold all licenses in their discretion.¹⁵ The body which may grant license may also revoke it for cause,¹⁶ and they may suspend it pending the examination of an affidavit of two citizens that the licensee has sold to a minor or to one intoxicated.¹⁷

Licenses are classified as manufacturing, wholesale, retail, bar-room, grocery, and drummer.¹⁸ They allow the sale of all liquors, or of beer and light wines only, and they sometimes forbid the sale of liquor to be drunk on the premises.

License Fees. — The taxes and fees on licenses are on —

¹ Rev. Stats. Ind. 1881, s. 5314.

² Laws Pa. 1887, no. 53, s. 4.

³ Rev. Stats. N. Y. p. 1979.

⁴ Rev. Stats. Ill. 1887, ch. 43, s. 5.

⁵ Laws Pa. 1887, no. 53, s. 5, 9th.

⁶ Gen. Stats. Conn. 1888, s. 3053.

⁷ Rev. Stats. N. Y. p. 1979.

⁸ Gen. Stats. Col. 1883, p. 2104, s. 9.

⁹ Laws Fla. 1883, ch. 3416, s. 5.

¹⁰ Pub. Stats. Mass. 1882, ch. 100, s. 7.

¹¹ Code Wash. Terr. 1881, s. 2060.

¹² Acts Mich. 1887, no. 313, s. 8.

¹³ Rev. Stats. N. Y. p. 1979.

¹⁴ Gen. Stats. Col. 1883, p. 2106, s. 11.

¹⁵ Dig. Stats. Ark. 1884, s. 4508.

¹⁶ Rev. Stats. Neb. 1887, ch. 50, s. 25.

¹⁷ Pol. Code Dak. 1885, ch. 35, s. 5.

¹⁸ Laws Miss. 1886, p. 16.

Light wine and beer only, from	\$25 ¹ to \$300 ²
General retailing	\$40 ³ to \$1,000 ⁴
Manufacturers	\$350 ⁵
Buffet cars and steamers	\$250 ⁶
Drummers	\$250 ⁷

In some States this is a fixed fee, in others it is a tax, graduated by the stock in trade, or by the population of the cities,⁸ or by the monthly⁹ or quarterly¹⁰ sales, which may be determined by a patent sale register.¹¹

In Wisconsin the minima are \$100 to \$200, and a Local Option vote is allowed to raise these to \$400 and \$500, respectively.¹²

Distribution of Proceeds. — An important point in practice is the distribution of the license moneys.

They are either handed over to the State and set apart for the school fund,¹³ or are divided between the State and the county,¹⁴ or between the county and the city,¹⁵ or the county and the city have separate control over the receipts. In one State they form a county road fund.¹⁶

Saloon Regulations. — It is customary, if not universal, to forbid sale to minors, to Indians, near camp meetings, on Sunday, in prison, on election day, to one intoxicated, or at agricultural fairs.

It is also usual to order saloons to be closed between the hours of 9¹⁷ or 12¹⁸ P.M. and 5¹⁹ or 7²⁰ A.M.

During the time of closing, all screens or obstructions must be removed.²¹

The adulteration of liquor, the employment of minors, and gaming in saloons, are generally forbidden, and some States forbid any screens or other obstructions to be placed between the street and the place of sale.²²

In South Carolina, one at whose saloon a riot or breach of the

¹ Laws Miss. 1886, p. 17.

⁸ Comp. Laws New Mex. § 2901.

⁵ Gen. Stats. Col. 1883, p. 630.

⁷ Laws Miss. 1886, p. 16.

⁹ Polit. Code Cal. s. 3381.

¹¹ Acts La. 1879, p. 3.

¹⁸ Code Miss. 1880, § 1099.

¹⁵ Laws Mich. 1887, no. 313, s. 9.

¹⁷ Acts Mich. 1887, no. 313, s. 17.

¹⁹ Gen. Stats. Minn. 1878, ch. 16, § 19.

²¹ Acts Mich. 1887, no. 313, s. 31.

² Pub. Acts Mich. 1887, no. 313, s. 1.

⁴ Laws Dak. 1887, ch. 71.

⁶ Code Ala. app. 1887, 629, subd. 3.

⁸ Code Ala. app. 1887, 629, subd. 2.

¹⁰ Rev. Stats. Ariz. 1887, par. 2239, tit. 42.

¹² Laws Wisc. 1885, ch. 296, s. 3.

¹⁴ Laws N. Mex. 1884, § 2901.

¹⁶ Laws Mo. 1887, p. 178.

¹⁸ Pa. Digest, 1883, p. 1081, s. 38.

²⁰ Acts Mich. 1887, no. 313, s. 17.

²² Acts Mass. 1882, ch. 259.

peace occurs, is presumed to have aided and abetted therein.¹ Elsewhere the mayor or selectmen may prohibit the sale of liquor in cases of riot or great public excitement.²

In a few States the sale of liquor in connection with any theatre³ or concert hall⁴ is forbidden; likewise, the sale within two miles of public political meetings.⁵

Penalties.—The breach of these regulations is a misdemeanor with the penalty of \$10 to \$100 fine, or ten days to three months imprisonment, or both; with increased penalties, and forfeiture of license⁶ for a second offence.

A portion of the fines may go to the informer,⁷ or to the school fund.⁸

Miscellaneous.—In some States special grocery licenses are given, in others the sale at groceries is specially prohibited.⁹

Again, sale on credit is forbidden,¹⁰ and no recovery may be had for sales of less than a quart at a time. Elsewhere, “treating” is forbidden,¹¹ and one having “treated” a voter forfeits the office to which he may have been elected.¹²

It is often provided that the public schools shall give instruction on the effects of alcoholic stimulants on the human system.¹³

It is not necessary in Ohio to allege the precise kind of liquor sold.¹⁴ “Intoxicating” includes both beer and cider.¹⁵

A judge may subpœna one found intoxicated to declare where and of whom he obtained the liquor.¹⁶

Retailers are those selling in quantities less than five gallons,¹⁷ or than one quart,¹⁸ and their licenses may be transferred if the body which has power to grant license consents.

The Ohio system is peculiar. By the constitution no license to traffic in liquors shall be granted by the State.¹⁹

By the Liquor Tax law of 1883 all persons retailing liquor are “assessed” under provisions similar to those elsewhere used to regulate licenses.²⁰

¹ Gen. Stats. S. C. 1882, s. 1740.

² Penal Code Cal., ss. 304-5.

³ Code N. C. 1883, s. 1079.

⁴ Code Miss. 1880, s. 1104.

⁵ Laws Pa. 1887, no. 53, s. 4.

⁶ Comp. Stats. Neb. 1887, ch. 50, s. 31.

⁷ Acts Mich. 1887, no. 165, s. 1.

⁸ Gen. Stats. Conn. 1888, s. 3048.

⁹ Laws of Mo. 1887, p. 217.

¹⁰ Cons. Ohio, art. 15, s. 9.

¹¹ Laws Mass. 1887, c. 365.

¹² Laws N. Y. 1887, ch. 307, § 3.

¹³ Laws Mass. 1887, c. 392.

¹⁴ Laws Io. 1884, c. 143, s. 9.

¹⁵ Code Cal. iv. p. 616.

¹⁶ Code W. Va. 1887, ch. 5, s. 10.

¹⁷ Rev. Stats. Ohio, 1886, s. 7222.

¹⁸ Acts Mich. 1887, no. 313, s. 19.

¹⁹ Rev. Stats. Mont. 1879, p. 576, s. 798.

²⁰ Oh. Laws, 1888, no. 237.

CIVIL DAMAGE ACTS.

These statutes are intended to place responsibility for the acts of intoxicated persons on the liquor seller, to give a special remedy to relatives damaged by such intoxication, and to prevent the sale of liquor to certain persons specifically named. These three purposes are sometimes embraced in one enactment, but generally appear separately. I will treat the subject as if in one enactment.

Every husband, wife, child, parent, guardian, employer, or other person who shall be injured in person, property, or means of support, by any intoxicated person, shall have a right of action against the person who by sale or gift of liquors caused the intoxication, in whole or in part, and against his lessor, with the knowledge that the building is used for the sale of intoxicating liquors, for actual and exemplary damages.¹

Notice. — Forbidding sale to a particular person may be given either by the relatives,² by a justice of the peace,³ or by the mayor on application of the relatives; after notice, sale to such person within three months,⁴ or one year,⁵ is illegal. This notice must be given before a witness,⁶ or a general notice to all the saloon-keepers of the town may be filed with the town clerk.⁷

The town authorities may give notice not to sell to those receiving town aid,⁸ or to one likely to become a public charge;⁹ or the probate judge may send to dealers a list of intemperate persons to whom they must not sell.¹⁰

Damages. — "The person so licensed shall pay all damages that the community or individuals may sustain in consequence of such traffic. He shall support all paupers, widows, and orphans, and the expenses of all civil and criminal prosecutions growing out of or justly attributed to his traffic in intoxicating drinks."¹¹

Damages may be for injury or death of the person intoxicated; they may be by fine, between \$25¹² and \$500;¹³ may be assessed by the jury,¹⁴ may be recovered in case,¹⁵ tort, or trespass,¹⁶ and this right of action survives.

¹ Rev. Code N. Y. p. 1990.

³ Pol. Code Dak. 1885, ch. 35, s. 4.

⁵ Laws Minn. 1887, ch. 81, s. 1.

⁷ Rev. Stats. Ohio, 1886, s. 4358.

⁹ Laws Wisc. 1887, ch. 288.

¹¹ Comp. Stats. Neb. 1887, ch. 50, s. 15.

¹³ Gen. Laws of N. H. 1878, ch. 109, s. 28.

¹⁴ Acts Mich. 1887, no. 313, s. 20.

¹⁶ Laws of R. I., May Sess. 1886, ch. 596, s. 50.

² Gen. Stats. Col. 1883 p. 1034, s. 5.

⁴ Dig. Laws Pa. p. 1082, s. 46.

⁶ Rev. Stats. Ohio, 1886, s. 4358.

⁸ Gen. Stats. Conn. 1888, s. 3089.

¹⁰ Laws Wash. Terr. 1886, p. 160.

¹² Code of N. C. 1883, s. 1078.

¹⁵ Gen. Laws N. H. 1878, ch. 109, s. 33.

If such intoxicated person be imprisoned for such intoxication, or for acts resulting therefrom, his wife or minor children may recover \$2 per diem for every day of such imprisonment from the person in whole or in part causing such intoxication.¹

The mayor or any one of the selectmen may give notice and sue in his own name for the benefit of the relatives.² Married women and minors may recover in their own name and for their own benefit.

A relative may recover \$5 from the vendor allowing one to become drunk on the premises.³

The lessor and the sureties⁴ may be liable as above.

One taking care of a person found intoxicated may recover his reasonable expenses,⁵ and \$2⁶ or \$5⁷ per day besides.

The evidence need only show that the sale was made on the day or about the time when the intoxication occurred, and proof of a single sale during such period will entitle a relative to recover;⁸ and it is sufficient if such intoxication be caused in whole or in part by the defendant.⁹

CONSTITUTIONAL PROVISIONS.

Fifteen States refer to this subject in their constitutions, namely, Alabama, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Louisiana, Maine, Mississippi, Nebraska, Ohio, Rhode Island, Texas, West Virginia.

Some declare that the legislature or county supervisors may regulate and prohibit¹⁰ by license tax,¹¹ or otherwise; and the proceeds of license taxes go to the school fund of the State¹² or the division where they accrued.¹³

Elsewhere, sale on Election-day or near the polls is forbidden.¹⁴

In two States — Florida and Texas — Local Option is enjoined,¹⁵ and in four — Iowa, Kansas, Maine, Rhode Island — the traffic is prohibited,¹⁶ except for medical, mechanical, or scientific purposes.

Adulteration of liquor is forbidden in Colorado.¹⁷

¹ Laws of Vt. 1886, no. 26.

² Acts Mass. 1885, ch. 282, s. 2.

³ Dig. Laws Pa. p. 1083, s. 57.

⁴ Acts Mich. 1887, no. 313, s. 20.

⁵ Pol. Code Dak. 1885, ch. 35, s. 8.

⁶ Rev. Stats. Illinois, 1887, s. 16.

⁷ Comp. Laws Kansas, 1885, s. 2300.

⁸ Comp. Stats. Neb. 1887, ch. 50, s. 18.

⁹ Laws R. I., May Sess., 1886, pp. 2-20, s. 48.

¹⁰ Cons. W. Va. art. 6, s. 46.

¹¹ Cons. Illinois, art. 9, s. 1.

¹² Cons. Ga. art. 8, s. 3.

¹³ Cons. Neb. art. 8, s. 5.

¹⁴ Cons. Ga. art. 8, s. 6.

¹⁵ Cons. Fla. art. 19, § 10.

¹⁶ Cons. Kansas, art. 15.

¹⁷ Cons. Col. art. 18, s. 5

Prohibition States. — Iowa, Kansas, Maine, New Hampshire, Rhode Island, Vermont, — 6.

Local Option States and Territories. — Arkansas, Connecticut, Dakota Territory, Florida, Georgia, Kentucky, Louisiana, Massachusetts, Minnesota, Missouri, Montana Territory, North Carolina, Ohio, South Carolina, Texas, Virginia, Washington Territory, — 17.

License, \$500, or over. — Arkansas, Dakota Territory, Illinois, Michigan, Minnesota, Missouri, Nebraska, Pennsylvania, Montana Territory, Washington Territory, — 10.

Those who are interested in the exact wording of Local Option and License laws will be well repaid by an examination of the Acts of Mich. 1887, nos. 197 and 313, and the criticism of Champlain, J., on Act no. 197, in *In Re Hauck*, 38 N. W. Rep. 269. The Local Option Act is declared unconstitutional for a variance between the title and the act.

Most of the questions of law arising under the foregoing body of legislation are ably treated in an article by W. L. Murfree, Sen., in 7 *Crim. Law Mag.* p. 137.

If the question arise whether these laws conflict with the Federal Constitution it would seem, by the late decision of the Supreme Court in the case of *Nugler v. Kansas*, 8 Sup. Ct. Rep. 273, that the States, in the exercise of their police power, may regulate and prohibit the sale of liquor in any way which does not interfere with interstate commerce, or with the U. S. revenue laws.

REFERENCE NOTES.

Alabama. — Const. art. 8, § 6; License, Code '86, ss. 1319-1323.

Arkansas. — Local Option, Dig. Stats. Ark. '84, s. 4513; License, \$700, Dig. Stats. Ark. '84, s. 4510; 3 Mile Law, Dig. Stats. Ark. '84, s. 4524.

Arizona. — License, by sales, \$40-\$500; Revised Stats. Ariz. '87, par. 2239.

California. — License, \$60 to \$480, by sales, Pol. Code Cal. s. 3381.

Colorado. — Const. art. 18, s. 5; License, \$25 to \$300, Gen. Stats. Col. p. 2103, s. 8; Civil Damage, after notice, Gen. Stats. Col. p. 1034, s. 5.

Connecticut. — Local Option by Towns, Gen. Stats. Conn. '88, s. 3050; License, General, \$100, ale, etc., \$50, Gen. Stats. Conn. '88, ss. 3053-3080.

Dakota. — Local Option, Laws Dak. '87, c. 70; License, \$500-\$1,000, Laws Dak. '87, c. 71; Civil Damage after notice, Polit. Code D. '85, c. 35, § 4.

Delaware. — License, Rev. Code Del. '74, p. 259; Civil Damage Laws, Del. '81, c. 384, s. 14; Acts Del. '87, p. 153.

Florida. — Const. art. 19, Local Option; Local Option, Laws of '87, p. 42, ch. 3700; License State Tax, \$400; counties, etc., may impose fifty per cent. additional, Laws of '87, ch. 3681, s. 9.

Georgia.—Const. art. 2, s. 5; art. 8, s. 3; Local Option, Laws '85, no. 182; License Code '82, § 1419; State Tax, §50.

Idaho.—License, \$60 to \$200, territorial tax; county tax by monthly sales, \$60 to \$100, Rev. Stats. Idaho '87, ss. 1648-9.

Indiana.—License, General, \$100, vinous and malt, \$50, Rev. Stat. Ind. '81, s. 5316. Incorporated towns may add as much more, Acts Ind. '85, p. 172.

Illinois.—Const. art. 9, s. 1; Local Option by petition, Rev. Stats. Ill. '87, ch. 43, s. 17; License, General, \$500, malt, \$150, Rev. Stats. Illinois '87, s. 16; Civil Damage, Rev. Stats. Illinois '87, s. 9.

Iowa.—Const. art. 1, s. 26, Prohibition; Prohibition, Laws '84, ch. 143; Nuisance, Laws '86, pp. 81-5; Permits, Rev. Code '80, p. 406 *et seq.*; Civil Damage, Rev. Code '80, s. 1557.

Kansas.—Const. art. 15, § 10, Prohibition; Prohibition, Comp. Laws '85, c. 35, s. 2287; Nuisance, Comp. Laws, s. 2299; Civil Damage, Comp. Laws, s. 2301; Nuisance, Laws '87, p. 233.

Kentucky.—Local Option, Gen. Stats. '87, p. 470; License, Gen. Stats. '87, p. 1047; Civil Damage, after notice, Gen. Stats. '87, p. 1235.

Louisiana.—Const. arts. 170, 190, 206; Local Option Laws of La. '84, p. 98; License, by sales, \$50-\$750, Laws '86, p. 181.

Maine.—Const. am'dmt, Acts '85, p. 339, Prohibition; Prohibition, Rev. Stats. ch. 27; Nuisance, Rev. Stats. ch. 27; Civil Damage, Rev. Stats. ch. 27; Town Agents.

Maryland.—License, by stock in trade, \$35-\$150; Rev. Code Md. '78, art. 12, ss. 60-70.

Massachusetts.—Local Option, Pub. Stats. ch. 100, s. 5; License, \$150 to \$1,000. Acts Mass. 1888, ch. 341; Druggists, Stats. '87, ch. 431; Civil Damage Stats. '85, ch. 282; Nuisance, Pub. Stats. ch. 101.

Michigan.—License, \$300-\$500, Acts '87, no. 313; Civil Damage, Acts '87, no. 313.

Minnesota.—Local Option, Laws '85, ch. 145, s. 48; License, \$500 to \$1,000, Laws '87, ch. 5; Civil Damage, after notice, Laws '87, ch. 81.

Mississippi.—Const. art. 8, s. 6, 2d amendment: Local Option, by petition, Code of '80, § 1103; License, General, \$200-\$1,000, Code of '80, § 1099.

Missouri.—Local Option, Laws '87, p. 179; Civil Damage for sale to a minor, Laws '85, p. 160; License, \$550 to \$1,200, Laws '87, p. 179.

Montana Territory.—License, \$180 to \$500, by population; Extra sess. '87, p. 74; Local Option, Gen. Stats. '87, p. 1035.

Nebraska.—Const. art. 8, s. 5, art. 9, s. 1; License, \$500 to \$1,000, by population; Comp. Stats. Neb. '87, ch. 50; Civil Damage, Comp. Stats. Neb. '87, ch. 50, s. 15.

Nevada.—License, \$60 to \$120, Rev. Stats. Nev. § 1140.

New Hampshire.—Prohibition; Nuisance, Laws '87, ch. 77; Civil Damage, Gen. Laws N. H. '78, ch. 109, s. 28; Town Agents, Gen. Laws N. H. '78, ch. 109, s. 1.

New Jersey.—Local Option, License, \$100 to \$250, Laws '88, ch. 110.

New Mexico.—License, \$40, Comp. Laws '84, §§ 1622, 2901; Civil Damage, after notice, Laws '87, p. 45.

New York.—License, Laws '86, ch. 496, § 1; License, \$30 to \$250, Rev. Code N. Y.; Civil Damage, Rev. Code, p. 1990.

North Carolina.—Local Option, Laws '87, ch. 215; License, \$80, Laws '87, pp. 249, 255; Civil Damage, Code, '83, s. 1078.

Ohio.—Const. art. 15, s. 9; Assessment, \$200, supp. Rev. Stats. pp. 686-8; Civil Damage, after notice, Rev. Stats. s. 4357.

Oregon.—Local Option by petition, Hill's Laws of Oregon, § 3635; License, Oregon, ch. 54, tit. 1.

Pennsylvania.—License, \$100 to \$500, by population, Laws of '87, no. 135; License, in General, Laws of '87, no. 53; Civil Damage, Pa. Digest, p. 1082.

South Carolina.—Local Option, Gen. Stats. S. C. '82, ss. 1746-53, amd. in Acts

'83, p. 384; License, \$75, Gen. Stats. s. 1736; Civil Damage, after notice, Gen. Stats. s. 1738.

Rhode Island. — Const. art. 5. Prohibition; Prohibition, Laws of '87, ch. 634, s. 1; Nuisance, Laws of '87, ch. 634, s. 14; Civil Damage, Laws of '86, p. 2, s. 48.

Tennessee. — License, \$150 to \$200, by population, Acts of Tenn. '87, p. 15; License, in general, Code Tenn. p. 172.

Texas. — Const. art. 16, s. 20; Local Option, Laws of '87, p. 96; License, General, \$300; malt, \$50; Laws '81, p. 21.

Utah. — License, \$100 to \$1,200, Laws of '82, ch. 28; Civil Damage, Laws of '82, ch. 28.

Virginia. — Local Option, Code '87, s. 581; License, \$75 to \$125, and 15% on the rental value of the bar-room; License, Wholesale, \$350, Acts of '84, p. 604.

Vermont. — Prohibition, Laws '82, no. 41; Civil Damage, Laws '86, p. 30; Nuisance, Rev. Stats. ss. 3834-45; In general, Rev. Stats. ch. 169.

Washington Territory. — Local Option, Laws '86, p. 31; Civil Damage, Code '81, s. 2059; License, \$300 to \$1,000; Laws '87, p. 124.

West Virginia. — Const. art. 6, § 46; License, \$150-\$350, Code of '87, p. 248; Wholesale, \$350, Code of '87, p. 248; Civil Damage, Code of '87, p. 237.

Wisconsin. — Local Option for high license, Laws '85, ch. 296; License, \$100 to \$200, by population, Laws '85, ch. 296; Civil Damage, Rev. Stats. s. 1560; Spendthrift Act, Laws '87, ch. 288.

Wyoming Territory. — License, \$100 to \$500, by distance from a railroad, Rev. Stats. Wyo. ss. 1442, 1453.

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